IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NO. 5:11-HC-2250-FL

ROBERT DONNELL BATTS,)	
Petitioner,)	
rennoner,)	
v.)	ORDER
UNITED STATES OF AMERICA)	
AND D. STEPHENS,)	
Respondents.)	
*	,	

This matter comes before the court on petitioner's motion to amend or alter the court's August 22, 2012, judgment, pursuant to Federal Rule of Civil Procedure 59(e) (DE # 10), to which respondent did not respond. In this posture, the matter is ripe for adjudication. For the following reasons, the court denies petitioner's motion.

Rule 59(e) permits a court to alter or amend a judgment. See Fed. R. Civ. P. 59(e). The decision whether to alter or amend a judgment pursuant to Rule 59(e) is within the sound discretion of the district court. See Bogart v. Chapell, 396 F.3d 548, 555 (4th Cir. 2005); Hughes v. Bedsole, 48 F.3d 1376, 1382 (4th Cir. 1995). The Fourth Circuit has recognized three reasons for granting a motion to alter or amend a judgment under Rule 59(e): (1) to accommodate an intervening change in controlling law; (2) to account for the availability of new evidence not previously available; or (3) to correct a clear error of law or prevent manifest injustice. See, e.g., Zinkand v. Brown, 478 F.3d 634, 637 (4th Cir. 2007); Bogart, 396 F.3d at 555; Hutchison v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). "A Rule 59(e) motion is not intended to allow for re-argument of the very issues

that the court has previously decided," <u>DeLong v. Thomas</u>, 790 F. Supp. 594, 618 (E.D. Va. 1991), <u>aff'd</u>, 985 F.2d 553 (4th Cir. 1993), and is not "intended to give an unhappy litigant one additional chance to sway the judge." <u>Durkin v. Taylor</u>, 444 F. Supp. 879, 889 (E.D. Va. 1977).

Petitioner fails to demonstrate an intervening change in controlling law, to present new evidence previously not available, or to show a clear error of law that would support granting his Rule 59(e) motion. Instead, he re-argues the merits of his dismissed claims. As stated, this is not sufficient for relief pursuant to Rule 59(e). <u>DeLong</u>, 790 F. Supp. at 618. Accordingly, petitioner's motion (DE # 10) is DENIED.

SO ORDERED, this the 4th day of October, 2012.

LOUISE W. FLANAGAN United States District Judge

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